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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,590	06/13/2007	Albert Bauer	582/9-2294	1224
28147	7590	12/10/2010	EXAMINER	
WILLIAM J. SAPONE				CIRIC, LJILJANA V
COLEMAN SUDOL SAPONE P.C.				
714 COLORADO AVENUE				
BRIDGE PORT, CT 06605				
				3785
ART UNIT		PAPER NUMBER		
NOTIFICATION DATE			DELIVERY MODE	
12/10/2010			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

wsapone@cssiplaw.com  
wjspatent@aol.com  
wsapone@colemansudolsapone.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/599,590	BAUER, ALBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ljiljana (Lil) V. Ciric	3785	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 September 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 11-20 is/are pending in the application.  
 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 11-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 October 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>10/02/2006</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of the first species or the embodiment of Figure 1, readable on claims 11 through 18, in the reply filed on September 20, 2010, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 19 and 20 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected second species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 20, 2010.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

4. The drawings filed on October 2, 2006 are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the features canceled from the claim(s): one sensor being provided upstream and one sensor is provided downstream of the at least one consuming device as recited in claim 13, for example. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

5. The abstract of the disclosure is objected to because it does not avoid using phrases which can be implied (i.e., "This invention relates to"; "The invention is characterized in that") and also because it does not avoid using legal phraseology (i.e., "comprises") which is normally reserved for claims. Correction is required. See MPEP § 608.01(b).

6. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

7. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 11 through 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "several" in claim 11 is a relative term which renders the claim indefinite. The term "several" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. As is, it is not clear how many circuits are encompassed by the term "several". Thus, as used to qualify the number of circuits which are encompassed by the cooling and/or heating device as claimed, this term renders the same indeterminate and the claims indefinite with regard to the scope of protection sought thereby.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to

whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 12 as written recites the broad recitation of "the sensors", and the claim also recites "consist of a temperature sensor or a pressure sensor" which is the narrower statement of the range/limitation and narrows the sensors to a single sensor (either a temperature sensor or a pressure sensor, but not both).

With regard to claim 13 as written, it is not clear whether each sensor referred to by the limitations "one sensor is provided upstream and one sensor is provided downstream of the at least one consuming device" is intended to refer back to one sensor out of the "sensors" previously recited in line 9 of claim 11 from which claim 13 depends or to an additional pair of sensors not previously recited in the claims, thus further rendering indefinite the metes and bounds of protection sought by the claims.

The limitations "wherein each valve (28, 88, 96) does not act as a flow restrictor/throttle when the passage therein is completely open" in claim 18 are unclear as written, in part because it is not clear to which previously recited element(s) the term "therein" is intended to refer to, and in part because there is no proper antecedent basis in the claims for the limitation "the passage".

#### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. As best can be understood in view of the indefiniteness of the claims, claims 11 through 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sandler Energietechnik GmbH & Co., KG (DE 42 03 613 A1, made of record via IDS).

Sandler Energietechnik GmbH & Co., KG discloses a cooling and/or heating device or system 30 essentially as claimed, including, for example: one or more heating or cooling units 7; a conduit network having flow conduits and return conduits and “several” circuits connected to these conduits as shown in Figure 1; at least one valve 12a, 12b, 12c, 8 in each circuit as shown in Figure 1 for adjusting the volumetric flow through the circuits, the valves connected to a control unit 4 and forming the only flow restrictors of the circuits and of the conduit network; at least one consuming device or heat exchanger 11a, 11b, 11c in each circuit; and, (temperature) sensors 10a, 10b, 10c, 15, and 16 provided in each circuit and forming part of a control circuit of the control unit 4 for adjusting the valves 12a, 12b, 12c as shown in Figure 1.

The reference thus reads on the claims.

12. Alternately for claims 11, 15, and 17, and as best can be understood in view of the indefiniteness of the claims, claims 11 and 15 through 18 are rejected under 35 U.S.C. 102(b) as being anticipated by KSB AG (DE 42 03 613 A1, made of record via IDS).

  KSB AG (especially Figure 17) discloses a cooling and/or heating device or system essentially as claimed, including, for example: one or more heating or cooling units; a conduit network having flow conduits and return conduits and “several” circuits connected to these conduits as shown in Figure 17; at least one valve 12 in each circuit as shown in Figure 17 for adjusting the volumetric flow through the circuits, the valves connected to a control unit 28 and forming the only flow restrictors of the circuits and of the conduit network, each valve also cooperating with a corresponding servomotor 2 and actuator 3; and, at least one consuming device V1, V2, V3, V4, V5, V6, V7, V8 in each circuit.

The reference thus reads on the claims.

### ***Conclusion***

13. The additional prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Cirim whose telephone number is 571-272-4909. The examiner works a flexible schedule, but can normally be reached weekdays between 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ljiljana (Lil) V. Cirim/

Primary Examiner, Art Unit 3785